

Executive Summary – Enforcement Matter – Case No. 46923
BEZINQUE PROPERTIES I, LTD. dba Peak Properties
RN101181105
Docket No. 2013-1014-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Peak Properties, 3418 South County Road 1200, Midland County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 6, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,809

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,809

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

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RN101181105
Docket No. 2013-1014-PWS-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: April 1, 2013
Date(s) of NOE(s): May 15, 2013

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
2. Failed to timely submit a Disinfectant Level Quarterly Operating Report (“DLQOR”) to the Executive Director each quarter by the tenth day of the month following the end of the quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
3. Failed to provide the results of semiannual lead and copper sampling to the Executive Director [30 TEX. ADMIN. CODE § 290.117(i)(1)].
4. Failed to provide public notification regarding the exceedance of the acute maximum contaminant level (“AMCL”) for nitrate [30 TEX. ADMIN. CODE § 290.122(a)(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On June 11, 2013, Respondent submitted the DLQORs for the third and fourth quarters of 2012.

Technical Requirements:

The Order will require Respondent to:

- a. Within 10 days, begin complying with applicable coliform monitoring requirements by collecting routine coliform monitoring samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting.
- b. Within 30 days:
 - i. Update the facility’s operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORs;

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- ii. Implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the facility, including but not limited to providing public notification for the exceedance of the AMCL for nitrate;
 - iii. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established; and
 - iv. Implement improvements to the facility's process procedures, guidance, training, and/or oversight to ensure that future drinking water chemical sample results are released by the facility's laboratories and reported to the Executive Director within ten days of Executive Director request or of their receipt by the facility, whichever is later.
- c. Within 45 days, submit written certification demonstrating compliance with Ordering Provisions b.i. through b.iv.
- d. Within 90 days, begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter. This provision will be satisfied upon two consecutive quarters of compliant reporting.
- e. Within 195 days, submit written certification demonstrating compliance with Ordering Provision a.
- f. Within 285 days, submit written certification demonstrating compliance with Ordering Provision d.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Sam Keller, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2678; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Curt Bezinque, Registered Agent, BEZINQUE PROPERTIES I, LTD, P.O. Box 4952, Midland, Texas 79704
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES

Assigned PCW

20-May-2013
3-Jun-2013

Screening 23-May-2013

EPA Due 30-Jun-2013

RESPONDENT/FACILITY INFORMATION

Respondent BEZINQUE PROPERTIES I, LTD. dba Peak Properties
Reg. Ent. Ref. No. RN101181105
Facility/Site Region 7-Midland **Major/Minor Source** Minor

CASE INFORMATION

Enf./Case ID No. 46923 **No. of Violations** 4
Docket No. 2013-1014-PWS-E **Order Type** Findings
Media Program(s) Public Water Supply **Government/Non-Profit** No
Multi-Media **Enf. Coordinator** Sam Keller
EC's Team Enforcement Team 2

Admin. Penalty \$ Limit Minimum \$50 **Maximum** \$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$1,170

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 30.0% Enhancement **Subtotals 2, 3, & 7** \$351

Notes Enhancement for six NOVs with the same/similar violations.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$235
Approx. Cost of Compliance \$620
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$1,521

OTHER FACTORS AS JUSTICE MAY REQUIRE

14.3%

Adjustment \$218

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement to capture the avoided costs of compliance for Violation Nos. 1 and 4.

Final Penalty Amount \$1,739

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$1,809

DEFERRAL

0.0%

Reduction Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$1,809

Screening Date 23-May-2013

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PCW

Respondent BEZINQUE PROPERTIES I, LTD. dba Peak Properties

Policy Revision 3 (September 2011)

Case ID No. 46923

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101181105

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for six NOVs with the same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 23-May-2013

Docket No. 2013-1014-PWS-E

PCW

Respondent BEZINQUE PROPERTIES I, LTD. dba Peak Properties

Policy Revision 3 (September 2011)

Case ID No. 46923

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101181105

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(A)(ii) and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of January 2012, March 2012, August 2012, October 2012, November 2012, January 2013, and February 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Failure to perform routine coliform monitoring could result in persons served by the Facility being exposed to undetected contaminants, which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 7 213 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,050

Seven monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,050

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$193

Violation Final Penalty Total \$1,561

This violation Final Assessed Penalty (adjusted for limits) - \$1,561

Economic Benefit Worksheet

Respondent BEZINQUE PROPERTIES I, LTD. dba Peak Properties

Case ID No. 46923

Reg. Ent. Reference No. RN101181105

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$175	1-Jan-2012	28-Feb-2013	2.08	\$18	\$175	\$193
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount (\$25 per sample x 7 missed samples) to conduct routine coliform sampling, calculated for the months sampling was not conducted.

Approx. Cost of Compliance

\$175

TOTAL

\$193

Screening Date 23-May-2013

Docket No. 2013-1014-PWS-E

PCW

Respondent BEZINQUE PROPERTIES I, LTD. dba Peak Properties

Policy Revision 3 (September 2011)

Case ID No. 46923

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101181105

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.110(e)(4)(A) and (f)(3)

Violation Description

Failed to timely submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of the quarter. Specifically, the Respondent did not timely submit DLQORs for the third and fourth quarters of 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 2

183 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$20

Two single events are recommended (one for each quarter the report was not timely submitted).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$20

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$30

This violation Final Assessed Penalty (adjusted for limits) \$100

Economic Benefit Worksheet

Respondent BEZINQUE PROPERTIES I, LTD. dba Peak Properties

Case ID No. 46923

Reg. Ent. Reference No. RN101181105

Media Public Water Supply

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	1-Apr-2013	31-Dec-2013	0.75	\$2	n/a	\$2
Training/Sampling	\$100	1-Apr-2013	31-Dec-2013	0.75	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$45	10-Oct-2012	11-Jun-2013	0.67	\$2	n/a	\$2

Notes for DELAYED costs

The delayed costs include the estimated amount to update the Facility's operational guidance and ensure the timely submittal of signed and certified quarterly DLQORs, calculated from the record review date to the estimated date of compliance. The other delayed costs include the estimated amount to prepare and submit DLQORs (\$22.50 per report x 2 missed reports). Date required is the date the first report was due and the final date is the date the reports were submitted.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$190

TOTAL

\$7

Screening Date 23-May-2013

Docket No. 2013-1014-PWS-E

PCW

Respondent BEZINQUE PROPERTIES I, LTD. dba Peak Properties

Policy Revision 3 (September 2011)

Case ID No. 46923

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101181105

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.117(i)(1)

Violation Description

Failed to provide the results of semiannual lead and copper sampling to the Executive Director for the July 1, 2012 through December 31, 2012 monitoring period.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

183 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	x
annual	
single event	

Violation Base Penalty \$50

One semiannual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$74

This violation Final Assessed Penalty (adjusted for limits) \$74

Economic Benefit Worksheet

Respondent BEZINQUE PROPERTIES I, LTD. dba Peak Properties
Case ID No. 46923
Reg. Ent. Reference No. RN101181105
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$30	31-Dec-2012	31-Dec-2013	1.00	\$0	\$2	\$2
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	1-Apr-2013	31-Dec-2013	0.75	\$4	n/a	\$4

Notes for DELAYED costs

The delayed cost includes the estimated amount to pay any outstanding lab fees so that the lab will release all drinking water chemical analysis results. The date required is the last date of the monitoring period for which results were not provided, and the final date is the estimated date of compliance. The other delayed cost includes the estimated amount to implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure results are released by the Facility's laboratories and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$130

TOTAL

\$6

Screening Date 23-May-2013

Docket No. 2013-1014-PWS-E

PCW

Respondent BEZINQUE PROPERTIES I, LTD. dba Peak Properties

Policy Revision 3 (September 2011)

Case ID No. 46923

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101181105

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.122(a)(2)

Violation Description Failed to provide public notification regarding the exceedance of the acute maximum contaminant level ("AMCL") for nitrate for the fourth quarter of 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

92 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$29

Violation Final Penalty Total \$74

This violation Final Assessed Penalty (adjusted for limits) \$74

Economic Benefit Worksheet

Respondent BEZINQUE PROPERTIES I, LTD. dba Peak Properties

Case ID No. 46923

Reg. Ent. Reference No. RN101181105

Media Public Water Supply

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	1-Apr-2013	31-Dec-2013	0.75	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that public notice is posted and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	19-Dec-2012	20-Dec-2012	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to provide public notification for the exceedance of the acute maximum contaminant level for nitrate (\$25 per notice), calculated for the period when public notification was not provided.

Approx. Cost of Compliance

\$125

TOTAL

\$29



Compliance History Report

PUBLISHED Compliance History Report for CN603690843, RN101181105, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN603690843, BEZINQUE PROPERTIES I, LTD.	Classification: NOT APPLICABLE	Rating: N/A
Regulated Entity:	RN101181105, Peak Properties	Classification: NOT APPLICABLE	Rating: N/A
Complexity Points:	N/A	Repeat Violator:	N/A
CH Group:	14 - Other		
Location:	3418 SOUTH COUNTY ROAD 1200, MIDLAND COUNTY, TEXAS		
TCEQ Region:	REGION 07 - MIDLAND		
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1650043		

Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year:	2012	Rating Date:	09/01/2012
Date Compliance History Report Prepared:	May 20, 2013				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	May 20, 2008 to May 20, 2013				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Sam Keller		Phone:	(512) 239-2678	

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | NO |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES, when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	August 17, 2009	(766040)
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E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	11/06/2012	(1087132)	CN603690843
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)		

Description: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
TCR Routine MR Violation 08/2012 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.

- 2 Date: 01/10/2013 (1087132) CN603690843
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 10/2012 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 3 Date: 01/29/2013 (1087132) CN603690843
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 11/2012 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 4 Date: 02/19/2013 (1087132) CN603690843
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.117(i)(1)
Description: PbCu IN MR 2nd 6M2012 - The system failed to monitor and/or report initial distribution lead and copper levels to the TCEQ for the six-month monitoring period from 07/01/2012 to 12/31/2012 within the required timeline.
- 5 Date: 03/13/2013 (1087132) CN603690843
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 01/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 6 Date: 04/01/2013 (1087132) CN603690843
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 02/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BEZINQUE PROPERTIES I, LTD.
DBA PEAK PROPERTIES
RN101181105**

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§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-1014-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding BEZINQUE PROPERTIES I, LTD. dba Peak Properties (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 3418 South County Road 1200 in Midland County, Texas (the "Facility") that has 33 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on April 1, 2013, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of January 2012, March 2012, August 2012, October 2012, November 2012, January 2013, and February 2013.
3. During a record review conducted on April 1, 2013, TCEQ staff documented that the Respondent did not timely submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director for the third and fourth quarters of 2012.
4. During a record review conducted on April 1, 2013, TCEQ staff documented that the Respondent did not provide the results of semiannual lead and copper sampling to the Executive Director for the July 1, 2012 through December 31, 2012 monitoring period.
5. During a record review conducted on April 1, 2013, TCEQ staff documented that the Respondent did not provide public notification regarding the exceedance of the acute maximum contaminant level ("AMCL") for nitrate for the fourth quarter of 2012.
6. The Respondent received notice of the violations on May 22, 2013.
7. The Executive Director recognizes that the Respondent, on June 11, 2013, submitted the DLQORs for the third and fourth quarters of 2012.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect routine distribution water samples for coliform analysis, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to timely submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to provide the results of semiannual lead and copper sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.117(i)(1).

5. As evidenced by Findings of Fact No. 5, the Respondent failed to provide public notification regarding the exceedance of the AMCL for nitrate, in violation of 30 TEX. ADMIN. CODE § 290.122(a)(2).
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of One Thousand Eight Hundred Nine Dollars (\$1,809) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Thousand Eight Hundred Nine Dollar (\$1,809) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Eight Hundred Nine Dollars (\$1,809) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: BEZINQUE PROPERTIES I, LTD. dba Peak Properties, Docket No. 2013-1014-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by collecting routine coliform monitoring samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting;

- b. Within 30 days after the effective date of this Agreed Order:
 - i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORs, as required by 30 TEX. ADMIN. CODE § 290.110;
 - ii. Implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility, including but not limited to providing public notification for the exceedance of the AMCL for nitrate, in accordance with 30 TEX. ADMIN. CODE § 290.122;
 - iii. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established, in accordance with 30 TEX. ADMIN. CODE § 290.117 (Regulation of Lead and Copper); and
 - iv. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that future drinking water chemical sample results are released by the Facility's laboratories and reported to the Executive Director within ten days of Executive Director request or of their receipt by the Facility, whichever is later, in accordance with 30 TEX. ADMIN. CODE § 290.117 (Regulation of Lead and Copper).
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision No. 2.f. below, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.b.i. through 2.b.iv.;
- d. Within 90 days after the effective date of this Agreed Order, begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110. This provision will be satisfied upon two consecutive quarters of compliant reporting. DLQORs shall be submitted to:

DLQOR Coordinator
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
- e. Within 195 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision No. 2.f. below, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.; and

- f. Within 285 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Tracy Miller

For the Executive Director

10.4.13

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of BEZINQUE PROPERTIES I, LTD. dba Peak Properties. I am authorized to agree to the attached Agreed Order on behalf of BEZINQUE PROPERTIES I, LTD. dba Peak Properties, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, BEZINQUE PROPERTIES I, LTD. dba Peak Properties waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Curt Bezinque
Signature

7/17/13
Date

Curt Bezinque
Name (Printed or typed)

7/17/13
Title

Authorized Representative of
BEZINQUE PROPERTIES I, LTD. dba Peak Properties

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.